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In re Application of :
Seeman, Philip : DECISION ON PETITION
Application No. 10/718,517 : TO MAKE SPECIAL
Filed: November 24, 2003 : 37 CFR 1.102(D)
Attorney Docket No. 13459-3 :
:

This is a decision on the petition under 37 CFR 1.102(d), filed on March 23, 2004, to make the above-identified application special based on applicants who are small entities filing biotechnology applications as set forth in M.P.E.P. § 708.02, Section XII.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

- (A) That small entity status has been established or include a statement establishing small entity status;
- (B) That the subject of the patent application is a major asset of the small entity; and
- (C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

To be granted special status, the application must be related to the field of Biotechnology.

As Chapter 2400 of the Manual of Patent Examining Procedure explains, inventions relating to biotechnology are directed towards biological materials, nucleotide sequences and/or amino acid sequences. See MPEP 2401. MPEP 2403 and 37 CFR 1.801 further explain and define biological materials to include "material that is capable of self-replication either directly or indirectly. Representative examples include bacteria, fungi including yeast, algae, protozoa, eukaryotic cells, cell lines, hybridomas, plasmids, viruses, plant tissue cells, lichens and seeds. Viruses, vectors, cell organelles and other non-living material existing in and reproducible from a living cell" are also listed. Based on this understanding, the subject matter of the present invention, a method for treating aspects of alcoholism, addictions and psychoses, does not fall within the intended purview of applications relating to biotechnology.

Further, the instant petition fails to meet the requirements set forth above for special status because it also lacks (B). Petitioner fails to discuss whether or not the application is a major asset of the small entity.

Further correspondence with respect to this matter should be addressed as follows:

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Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3764 for action on the merits commensurate with this decision.



David Bucci
Petitions Examiner
Office of Petitions